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John E. Logan

April 19, 2000

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: *Ex Parte* Submissin  
UNE Remand- CC Docket 96-98

Dear Ms. Salas:

On behalf of the MediaOne Group, enclosed is an *ex parte* submission delivered today to the Chief of the Common Carrier Bureau. Copies of this letter were also provided to Ms. Attwood of Chairman Kennard's office, Ms. Matthey, Mr. Jennings, Mr. Reel, Mr. Paladini, and Ms. Donovan-May of the Common Carrier Bureau, and Mr. Taubenblatt and Mr. Steinberg of the Wireless Telecommunicatins Bureau.

The necessary copies are enclosed.

Respectfully,

  
John E. Logan

Copy provided to: Mr. Strickling, Ms. Attwood, Ms. Matthey, Mr. Jennings, Mr. Reel, Mr. Paladini, Ms. Donovan-May, Mr. Taubenblatt, and Mr. Steinberg

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April 19, 2000

Mr. Larry Strickling  
Chief, Common Carrier Bureau  
Federal Communications Commission  
Washington, D.C. 20554

RE: *Ex Parte* Submission- UNE Remand, CC Docket No. 96-98

Dear Mr. Strickling:

In its UNE Remand Order,<sup>1</sup> the Commission adopted rules requiring incumbent local exchange carriers (LECs) to "provide a single point of interconnection at multi-unit premises that is suitable for use by multiple carriers."<sup>2</sup> The rules further require that incumbent LECs provide access to "inside wire . . . at any technically feasible point, including . . . the single point of interconnection" (SPOI); "inside wire" is defined essentially as all incumbent-owned loop plant on or near the end user's premises.<sup>3</sup>

These rules are of fundamental importance toward ensuring competition in the local telephone market, specifically in providing competitive LECs the opportunity, now precluded in many locales, to provide services to multi-unit premises. Once they become effective, these rules allow competitors to offer their services to tenants of apartment buildings everywhere. Without them, the incumbent LECs will often continue to control access to and throughout the building, and thereby access to the customers residing there. Despite this (or, perhaps, because of it) several incumbent LECs have sought reconsideration of the SPOI requirement. If granted, their petitions would seriously hinder the ability of competitive LECs to serve multi-unit premises.

Bell Atlantic has requested that the Commission reconsider its decision to require the incumbents to provide a SPOI.<sup>4</sup> U S WEST and GTE support Bell Atlantic's request with the claim that a SPOI is not necessary to accommodate interconnection, and that the Commission therefore cannot require it.<sup>5</sup> MediaOne's experience proves otherwise.

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<sup>1</sup> Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Third Report and Order (FCC 99-238, released November 5, 1999) (UNE Remand Order).

<sup>2</sup> Rules, §51.319(a)(2)(E), UNE Remand Order, Appx. C, p. 4.

<sup>3</sup> Rules, §51.319(a)(2)(A), UNE Remand Order, Appx. C, p. 3.

<sup>4</sup> Bell Atlantic Petition for Reconsideration and Clarification, CC Dkt. No. 96-98 (February 17, 2000), pp. 13-15.

<sup>5</sup> Reply of U S WEST, Inc., CC Dkt. No. 96-98 (April 5, 2000), pp. 5-7; Reply of GTE, CC Dkt. No. 96-98 (April 4, 2000), pp. 6-7.

In fact, absent a SPOI, competitive LECs are unlikely ever to have reasonable access to incumbent-controlled premises facilities. As MediaOne has explained in prior presentations, BellSouth proposes to make such facilities available to its competitors pursuant to procedures that make their use uneconomic and impracticable.<sup>6</sup> Except where a state commission has ordered otherwise,<sup>7</sup> BellSouth insists on having its technician provision NTW, even though the routine tasks involved could be performed by a MediaOne technician with no significant risk to BellSouth's network or its services. This leaves a competitive LEC with the Hobson's choice of coordinating the schedules of its technician and BellSouth's to be on the premises simultaneously (and paying BellSouth for both), or paying BellSouth to pre-wire an NTW pair to each unit, whether it has a customer there or not. As a result of these cumbersome, expensive procedures, MediaOne has been able to serve only a handful of multi-unit premises in the Atlanta area and in its service area in Florida.<sup>8</sup>

Because it will be accessible by all carriers, the SPOI promises to eliminate the incumbent LECs' ability to impose such anti-competitive practices. The SPOI will thus make competitive alternatives available to residents of multi-unit premises who do not now have them. The Commission must stand firm with respect to the SPOI requirement.

BellSouth raises a different complaint. It objects to the definition of "inside wire" because it differs from the Commission's "traditional" definition of that term, which might lead to confusion and unnecessary dispute.<sup>9</sup> In its place, BellSouth proposes that the Commission use a pair of terms, "intrabuilding network cable" (INC) and "network terminating wire" (NTW), to characterize the facilities in question.<sup>10</sup>

The Commission need not change its rules at all; whatever the Commission chooses to do, it must not adopt BellSouth's proposal. The definition of "inside wire," as written, is unlikely to cause confusion. The rule implements the law's requirement that networks be opened to ensure competition. In any case, BellSouth has proposed a heavy-handed, rather clumsy solution to a simple problem. Review of BellSouth's proposed definitions for its suggested terms indicates that, between them, they would cover the identical facilities now encompassed under the rubric of "inside wire" in the new rules. It thus appears that BellSouth's objection lies not with the definition adopted by the Commission, but with the term it has defined. The solution to the problem (if any) is thus

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<sup>6</sup> See letter from John E. Logan, Wallman Strategic Consulting, LLC to Magalie Roman Salas, FCC, CC Dkt. No. 96-98 (August 12, 1999); letter from John E. Logan to Magalie Roman Salas, CC Dkt. No. 96-98 (August 13, 1999) (transmitting copy of letter from John E. Logan to Jake Jennings, Esq., FCC, CC Dkt. No. 96-98, dated August 12, 1999); letter from John E. Logan to Magalie Roman Salas, CC Dkt. No. 96-98 (November 19, 1999).

<sup>7</sup> The Georgia PSC has required BellSouth to implement the SPOI requirement pursuant to an arbitration proceeding with MediaOne. Petition of MediaOne Telecommunications of Georgia, L.L.C. for Arbitration, Dkt. No. 10418-U (December 21, 1999), pp. 4-6.

<sup>8</sup> MediaOne estimates that BellSouth's NTW proposals would add nearly \$100 to its customer-acquisition costs.

<sup>9</sup> BellSouth Petition for Reconsideration/Clarification, CC Dkt. No. 96-98 (February 17, 2000), pp. 1-4.

<sup>10</sup> BellSouth Reply, CC Dkt. No. 96-98 (April 5, 2000), pp. 4-5.

quite simple: Leave the definition as is, but change the term defined to something else, *e.g.*, “premises wire.” That will eliminate any possible confusion with “inside wire.”

BellSouth's proposal would only increase confusion. It would define INC essentially as facilities (other than NTW) on the incumbent's side of the demarcation point, located in a multi-unit premises or running between buildings on a customer's premises.<sup>11</sup> NTW, on the other hand, would be the facilities “used to extend circuits from an Intrabuilding Network Cable terminal or from a building entrance terminal to an individual customer's demarcation point.”<sup>12</sup>

BellSouth might be able to ascertain where INC ends and NTW begins, but the answer will seldom be self-evident. Hence, BellSouth's scheme is a sure recipe for confusion and disagreement – and therefore delay – in bringing competitive local service to multi-unit premises. Moreover, if the same obligations attach to both INC and NTW – as would be the case under the existing rules – the change would make no substantive difference. BellSouth's proposal makes sense (if at all) only if the two elements somehow receive different treatment, but the rules do not allow that.<sup>13</sup> Indeed, in the Commission's consideration of BellSouth's proposal, it must take care to ensure that the obligation to provide interconnection at any technically feasible point, including the SPOI, continues to apply to both elements.<sup>14</sup> Otherwise, the incumbents will retain the ability to impede their competitors' efforts to serve customers in multi-unit premises.

In its UNE Remand Order, the Commission implemented a reasonable means to provide a tangible opportunity for competitive local telephone service in multi-unit premises. The decision properly recognized the reality of incumbent LEC control over

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<sup>11</sup> *Id.*, p. 4.

<sup>12</sup> *Id.*, p. 5.

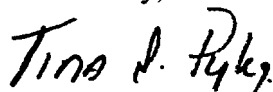
<sup>13</sup> BellSouth seems to believe that merely subdividing “inside wire” into separate components will somehow affect the competitive LECs' interconnection rights. BellSouth thus argues that MediaOne's proposal to define NTW to include INC could wind up costing a competitive LEC more if it wants only to obtain access to “true” NTW. (*Id.*, p. 6) This overlooks the fact that the rules require the incumbents to provide access to “the inside wire subloop at any technically feasible point.” Merely dividing inside wire into two elements would not, without more, change that fundamental obligation. Whatever we choose to call them, BellSouth is obliged to provide access to INC and NTW – or to either of them individually – at any technically feasible point, including the SPOI.

<sup>14</sup> The Commission should note that, on its website, BellSouth continues to propose the same uneconomic and anti-competitive procedures for both INC and NTW that have effectively kept MediaOne out of multi-unit premises in Atlanta and Florida. *See*, <http://www.interconnection.bellsouth.com/products/UNE/UNTW.html>, and, <http://www.interconnection.bellsouth.com/products/UNE/bsvgusl.pdf>.

the facilities necessary to reach the consumer in each unit. If multi-unit premises residents are to gain the benefits of competition, the Commission's present rule must continue to encompass all the facilities necessary to reach each of them.

Please do not hesitate to contact us if we can provide additional information.

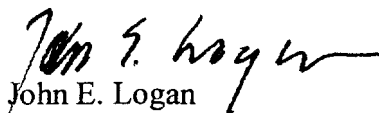
Yours truly,



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